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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/692,760	10/24/2003	Andrea Kelly	Kelly US-1	8963

7590 07/26/2004

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EXAMINER

NGUYEN, CAMTU TRAN

ART UNIT	PAPER NUMBER
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3743

DATE MAILED: 07/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/692,760

Applicant(s)

KELLY, ANDREA

Examiner

Camtu T. Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 10, and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Hill (US Patent No. 5,643,183). Hill discloses in Figures 1 and 2 an elongated waterproof sleeve (1) covering a limb of the user. The sleeve (1) comprises a fastener in the form of a sealing at one end of the sleeve (1) to form a waterproof cover or protector for insertion of a user's limb therein. Figure 4 discloses the strip (9) wrapping around one side and attaching to the strip (15) and that the strip (9) can be further adjusted, as needed, to ensure a good seal about the user's limb. The sleeve would inherently capable of carrying out the steps as recited in the method claim.

Claims 1, 3, 9, 10, 12 and 18-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Lahaussios et al (US Patent No. 5,542,121). Lahaussios et al discloses in Figure 1 a forearm protector (10) in the form of tubular sleeve open at each end (11, 12) and is adapted to receive over the hand or forearm. The protector is formed of a laminated material with a thin layer of moisture impermeable plastic (thermoplastic) film (13). Figure 1 illustrates the protector (22) may include elastic or expandable bands (22) to hold it in position of the user's arm, thereby, providing a seal to the hand or forearm of the user.

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The introductory statement and all other functional statements of intended use have been carefully considered but deemed not to impose any structural limitations on the claims distinguishable over the Hill or the Lahaussios et al device in the sense of 35 USC 102 which is capable of being used as set forth in the claims.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2, 3, 9, 11, 12, 18 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hill (US Patent No. 5,643,183). Hill discloses in Figures 1 and 2 an elongated waterproof sleeve (1) covering a limb of the user. With regards to fastener, as recited, Applicant disclosed in the specification on paragraph [0020] the fastener may take a variety of forms. Therefore it would have been obvious to one skilled in the art to consider any of the fastener, as recited, as all of the recited fasteners are well known in the art of fasteners. With regards to the method claims, as recited, from the manufacturing and the supply point of view when making or creating the device, a roll of the waterproof material must have been provided as raw material. Therefore it would have been obvious to dispense a portion of the waterproof material from its roll. The Hill device is capable of performing the rest of the steps in the method claims.

Claims 2 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lahaussios et al (US Patent No. 5,542,121). Lahaussios et al discloses in Figure 1 a forearm

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protector (10). With regards to fastener, as recited, Applicant disclosed in the specification on paragraph [0020] the fastener may take a variety of forms. Therefore it would have been obvious to one skilled in the to considered any of the fastener, as recited, as all of the recited fasteners are well known in the art of fasteners.

Claims 4-8 and 13-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hill (US Patent No. 5,643,183) or Lahaussios et al (US Patent No. 5,542,121) in view of Brown et al (U.S. Patent No. 4,254,765). Hill discloses in Figures 1 and 2 an elongated waterproof sleeve (1) covering a limb of the user comprising elements set forth in these claims but does not teach the strap as recited. Brown et al discloses in Figures 1-4 a limb protective coverings comprising a closure member (15). Therefore it would have been obvious to one skilled in the art to substitute Hill's strip (9) or Lahaussios et al's band (22) for the closure member suggested by Brown et al as such would offer a better seal. With regards to the strap comprising a pair of rings, clearly, this form of sealing/securing is well known in the art. Therefore it would have been obvious one of ordinary skill in the art to also consider such form of sealing/securing for the purpose of maintaining a uni-directional pulling motion, thereby, providing a convenient fastening means for the user.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Camtu T. Nguyen whose telephone number is 703-305-0537.

The examiner can normally be reached on (M-F) 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Henry A. Bennett can be reached on 703-308-0101. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Camtu Nguyen
July

Henry Bennett
Supervisor/Patent Examiner
Group 3700